

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2653

Introduced by Assembly Member Linder

(Coauthors: Assembly Members Allen, Bigelow, Conway, Beth Gaines, Gorell, Hagman, Harkey, Jones, Melendez, Olsen, Patterson, Wagner, and Wilk)

February 21, 2014

An act to amend ~~Section 163~~ *Sections 183.1 and 2103* of the Streets and Highways Code, relating to transportation, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2653, as amended, Linder. Transportation ~~funds.~~ *finance.*

(1) Article XIX of the California Constitution restricts the use of fuel excise tax revenues imposed by the state on fuels used in motor vehicles upon public streets and highways to expenditure on highway and certain mass transit purposes. Existing law provides for the deposit of these revenues in the Highway Users Tax Account, and appropriates those revenues to various purposes. Existing law, with respect to the portion of these revenues that is derived from increases in the motor vehicle fuel excise tax beginning in 2010, requires an allocation to reimburse the State Highway Account for the amount of weight fee revenues that the State Highway Account is not receiving due to use of weight fee revenues to pay debt service on transportation general obligation bonds and to make certain loans, with the remaining amount of this portion of revenues allocated 44% to the State Transportation Improvement Program, 12% to the State Highway Operations and Protection Program, and 44% to city and county streets and roads.

This bill would delete the provisions allocating revenues derived from the increased motor vehicle fuel excise tax to State Highway Account reimbursement, the State Transportation Improvement Program, and the State Highway Operations and Protection Program. The bill would instead provide for the Controller to apportion all of these revenues to cities and counties for local streets and roads pursuant to a specified formula, thereby making an appropriation.

(2) Existing law, commencing with the 2013–14 fiscal year, requires certain revenues deposited in the State Highway Account that are not restricted as to expenditure by Article XIX of the California Constitution to be transferred to the Transportation Debt Service Fund in the State Transportation Fund for payment of current year debt service on certain transportation general obligation bonds.

This bill would delete the transfer of these revenues to the Transportation Debt Service Fund, and would instead provide for appropriation in the annual Budget Act of 44% of these revenues to the State Transportation Improvement Program, 12% to the State Highway Operations and Protection Program, and 44% to city and county streets and roads pursuant to a specified formula.

~~Existing law establishes a policy for expenditure of certain state and federal funds available to the state for transportation purposes. Under this policy, the Department of Transportation and the California Transportation Commission are required to develop a fund estimate of available funds for purposes of adopting the state transportation improvement program, which is a listing of capital improvement projects. Existing law requires the estimate of annual expenditures for local assistance to be the amount required to fund local assistance programs required by state or federal law or regulations.~~

~~This bill would make a nonsubstantive change to this provision.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 183.1 of the Streets and Highways Code
2 is amended to read:

3 183.1. (a) Notwithstanding subdivision (a) of Section 182 or
4 any other provision of law, money deposited into the account that
5 is not subject to Article XIX of the California Constitution,
6 including, but not limited to, money that is derived from the sale

1 of documents, charges for miscellaneous services to the public,
2 condemnation deposits fund investments, rental of state property,
3 or any other miscellaneous uses of property or money, may be
4 used for any transportation purpose authorized by statute, upon
5 appropriation by the Legislature or, after transfer to another fund,
6 upon appropriation by the Legislature from that fund.

7 ~~(b) Commencing with the 2013-14 fiscal year, and not later~~
8 ~~than November 1 of each fiscal year thereafter, based on prior year~~
9 ~~financial statements, the Controller shall transfer the funds~~
10 ~~identified in subdivision (a) for the prior fiscal year from the State~~
11 ~~Highway Account to the Transportation Debt Service Fund in the~~
12 ~~State Transportation Fund, and those funds are continuously~~
13 ~~appropriated for the purposes specified for the Transportation Debt~~
14 ~~Service Fund.~~

15 *(b) The funds identified in subdivision (a) shall be appropriated*
16 *in the annual Budget Act as follows:*

17 *(1) Forty-four percent to fund projects in the State*
18 *Transportation Improvement Program.*

19 *(2) Twelve percent to fund projects in the State Highway*
20 *Operation and Protection Program.*

21 *(3) Forty-four percent to be apportioned by the Controller for*
22 *local street and road purposes pursuant to the formula in*
23 *subdivision (a) of Section 2103.*

24 *SEC. 2. Section 2103 of the Streets and Highways Code is*
25 *amended to read:*

26 2103. (a) Notwithstanding Section 13340 of the Government
27 Code, ~~of~~ the net revenues deposited to the credit of the Highway
28 Users Tax Account that are derived from the increases in the rates
29 of taxes that are imposed pursuant to subdivision (b) of Section
30 7360 and Section 7361.1 of the Revenue and Taxation Code, ~~all~~
31 ~~of the following shall occur on a monthly basis:~~ *shall be*
32 *apportioned by the Controller for local street and road purposes*
33 *as follows:*

34 ~~(1) (A) By the 15th day of every month, the Treasurer's office,~~
35 ~~in consultation with the Department of Finance, shall notify the~~
36 ~~Controller of the amount of debt service that will be paid on each~~
37 ~~transportation bond during that month.~~

38 ~~(B) Within two business days following the 28th day of each~~
39 ~~month, the Controller shall transfer to the Transportation Debt~~
40 ~~Service Fund an amount equal to the amount of monthly debt~~

1 service paid by the General Fund on any bonds issued pursuant to
2 the ~~Seismic Retrofit Bond Act of 1996 (Chapter 12.48~~
3 ~~(commencing with Section 8879) of Division 1 of Title 2 of the~~
4 ~~Government Code) or any other bonds issued for highway or~~
5 ~~eligible guideway projects consistent with the requirements~~
6 ~~applicable to the expenditure of revenues under Article XIX of the~~
7 ~~California Constitution as identified by the Department of Finance~~
8 ~~pursuant to Section 16965 of the Government Code, and~~
9 ~~three-quarters of the amount of monthly debt service paid on any~~
10 ~~bonds issued pursuant to the Highway Safety, Traffic Reduction,~~
11 ~~Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49~~
12 ~~(commencing with Section 8879.20) of Division 1 of Title 2) for~~
13 ~~reimbursement of the General Fund for these costs. If revenues~~
14 ~~available pursuant to this subdivision in any given month are~~
15 ~~insufficient to fully reimburse the General Fund for the debt service~~
16 ~~payments made, the first revenues available pursuant to this~~
17 ~~subdivision in the following month or months shall be transferred~~
18 ~~to the Transportation Debt Service Fund so that all debt service~~
19 ~~payments made on these bonds from the General Fund in a given~~
20 ~~fiscal year are fully reimbursed. However, no further transfers~~
21 ~~shall be made pursuant to this subparagraph once the transfers for~~
22 ~~the months of July to October, inclusive, in 2010 have been made.~~
23 ~~Any transfers made from the net revenues identified in this~~
24 ~~paragraph for highway and eligible guideway bond debt service~~
25 ~~for months after October 2010 shall be reversed and shall instead~~
26 ~~be made from weight fee revenues in the State Highway Account,~~
27 ~~as described in subparagraph (F).~~

28 (C) ~~Beginning November 2, 2010, the Controller shall transfer~~
29 ~~to the State Highway Account within two business days following~~
30 ~~the 28th day of each month all of the monthly net revenues~~
31 ~~identified in subparagraph (B) that were designated for highway~~
32 ~~and eligible guideway bond debt service reimbursement but that~~
33 ~~have not been transferred, or that were transferred by means of a~~
34 ~~transfer that was reversed, pursuant to that subparagraph. To the~~
35 ~~extent the Controller has distributed any of those net revenues to~~
36 ~~cities and counties pursuant to subparagraph (C) of paragraph (3)~~
37 ~~between November 2, 2010, and March 24, 2011, the Controller~~
38 ~~shall subsequently reduce the amount transferred to cities and~~
39 ~~counties on a monthly basis pursuant to subparagraph (C) of~~
40 ~~paragraph (3) and shall instead transfer these funds to the State~~

Highway Account until all of the revenues that would otherwise have been transferred to the State Highway Account on and after November 2, 2010, pursuant to this subparagraph have been so transferred. For the 2011–12 fiscal year, the Controller shall transfer to the State Highway Account within two business days following the 28th day of each month an amount equal to the weight fee revenues transferred to the Transportation Debt Service Fund pursuant to subdivision (b) of Section 9400.4 of the Vehicle Code, including forty-three million seven hundred thousand dollars (\$43,700,000) authorized pursuant to Item 2660-013-0042 of Section 2.00 of the Budget Act of 2011 and an amount equal to weight fee revenues transferred to the General Fund as a loan pursuant to subdivision (b) of Section 9400.4 of the Vehicle Code. To the extent the Controller has distributed any of those revenues to cities and counties pursuant to subparagraph (C) of paragraph (3), the Controller shall subsequently reduce the amount transferred to cities and counties on a monthly basis pursuant to subparagraph (C) of paragraph (3) and instead transfer these funds to the State Highway Account until all of the revenues that would otherwise have been transferred to the State Highway Account in the 2011–12 fiscal year pursuant to this subparagraph have been so transferred.

(D) Notwithstanding subparagraph (C), commencing with the 2012–13 fiscal year and every fiscal year thereafter, the Controller shall transfer to the State Highway Account within two business days following the 28th day of each month an amount equal to the amount of weight fee revenues transferred to the Transportation Debt Service Fund for highway and eligible guideway bond debt service and to the General Fund as a loan pursuant to subdivision (c) of Section 9400.4 of the Vehicle Code.

(E) Beginning July 1, 2011, transfers made under subparagraphs (C) and (D) during a fiscal year shall not exceed the annual revenue generated from weight fees, as determined by Sections 9400.4 and 42205 of the Vehicle Code, at the rates in effect as of March 24, 2011, as determined by the Department of Finance.

(F) Any remaining amount of the highway or eligible guideway bond debt service reimbursement authorized by this paragraph that has not been made pursuant to subparagraph (B) on and after November 2, 2010, shall instead be made pursuant to subdivisions (a), (b), and (c) of Section 9400.4 of the Vehicle Code from revenues in the State Highway Account derived from weight fees

1 deposited in the account pursuant to subdivision (e) of Section
2 9400.1 and Section 42205 of the Vehicle Code.

3 (2) (A) In the 2010-11 fiscal year, after the monthly transfer
4 made pursuant to paragraph (1), the sum of fifty-four million one
5 hundred sixty-seven thousand dollars (\$54,167,000) per month
6 shall be held in the account for future appropriation by the
7 Legislature.

8 (B) Notwithstanding any other provision of law, with respect
9 to the monthly net revenues described in subparagraph (A), no
10 further transfers of these revenues for the purpose of loans to the
11 General Fund shall be made pursuant to Item 2660-011-0062 of
12 Section 2.00 of the Budget Act of 2010 once the loan transfers for
13 the months of July to October, inclusive, in 2010 have been made.
14 Notwithstanding the loan repayment date specified in the
15 provisional language for that item, the funds loaned shall be repaid
16 by June 30, 2021. Any transfers made from the monthly net
17 revenues in subparagraph (A) for months after October 2010 shall
18 be reversed and shall instead be made from weight fee revenues
19 in the State Highway Account, as described in subparagraph (D).
20 The revenues from loan repayments shall be held in the Highway
21 Users Tax Account for future appropriation by the Legislature.

22 (C) Beginning November 2, 2010, all of the monthly net
23 revenues described in subparagraph (A) shall instead be transferred
24 by the Controller to the State Highway Account within two
25 business days following the 28th day of each month. To the extent
26 that the Controller has distributed any of the revenues identified
27 in this paragraph to cities and counties pursuant to subparagraph
28 (C) of paragraph (3) between October 14, 2010, and March 24,
29 2011, the Controller shall subsequently reduce the amount
30 transferred to cities and counties on a monthly basis pursuant to
31 subparagraph (C) of paragraph (3) and shall instead transfer these
32 funds to the State Highway Account until all of the revenues that
33 would have been transferred to the General Fund as a loan pursuant
34 to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010
35 on and after November 2, 2010, have instead been transferred to
36 the State Highway Account.

37 (D) Any remaining amount of the loans to the General Fund
38 authorized pursuant to Item 2660-011-0062 of Section 2.00 of the
39 Budget Act of 2010 that has not been made pursuant to
40 subparagraph (B) on and after November 2, 2010, shall instead be

1 made pursuant to subdivisions (a), (b), and (c) of Section 9400.4
2 of the Vehicle Code from revenues in the State Highway Account
3 derived from weight fees deposited in the account pursuant to
4 subdivision (e) of Section 9400.1 and Section 42205 of the Vehicle
5 Code.

6 (3) The Controller shall transfer any remaining net revenues
7 subject to this subdivision as follows:

8 (A) Forty-four percent shall be transferred to the State Highway
9 Account to fund projects in the State Transportation Improvement
10 Program that are consistent with Section 1 of Article XIX of the
11 California Constitution, except in the 2010–11 fiscal year, 50
12 percent shall be transferred for purposes of this subparagraph.

13 (B) Twelve percent shall be transferred to the State Highway
14 Account to fund projects in the State Highway Operation and
15 Protection Program, except in the 2010–11 fiscal year, no revenues
16 shall be transferred for purposes of this subparagraph.

17 (C) Forty-four percent shall be apportioned by the Controller
18 for local street and road purposes, except in the 2010–11 fiscal
19 year, 50 percent shall be transferred for purposes of this
20 subparagraph as follows:

21 (i)
22 (1) Fifty percent shall be apportioned by the Controller to cities,
23 including a city and county, in the proportion that the total
24 population of the city bears to the total population of all the cities
25 in the state.

26 (ii)
27 (2) Fifty percent shall be apportioned by the Controller to
28 counties, including a city and county, in accordance with the
29 following formulas:

30 (I)
31 (A) Seventy-five percent shall be apportioned among the
32 counties in the proportion that the number of fee-paid and exempt
33 vehicles that are registered in the county bear to the number of
34 fee-paid and exempt vehicles registered in the state.

35 (II)
36 (B) Twenty-five percent shall be apportioned among the counties
37 in the proportion that the number of miles of maintained county
38 roads in each county bear to the total number of miles of
39 maintained county roads in the state. For the purposes of
40 apportioning funds under this subparagraph, any roads within the

1 boundaries of a city and county that are not state highways shall
2 be deemed to be county roads.

3 (b) After the ~~transfers or other actions~~ *apportionments* pursuant
4 to subdivision (a), at least 90 percent of the balance deposited to
5 the credit of the Highway Users Tax Account in the Transportation
6 Tax Fund by the 28th day of each month shall be apportioned or
7 transferred, as applicable, by the Controller by the second working
8 day thereafter, except for June, in which case the apportionment
9 or transfer shall be made the same day. These apportionments or
10 transfers shall be made as provided for in Sections 2104 to 2122,
11 inclusive. If information is not available to make the apportionment
12 or transfer as required, the apportionment or transfer shall be made
13 on the basis of the information of the previous month. Amounts
14 not apportioned or transferred shall be included in the
15 apportionment or transfer of the subsequent month.

16 (c) Notwithstanding any other law, the funds apportioned by
17 the Controller to cities and counties pursuant to ~~subparagraph (C)~~
18 ~~of paragraph (3) of subdivision (a)~~ are not subject to Section 7104
19 or 7104.2 of the Revenue and Taxation Code. These funds may
20 be expended for any street and road purpose consistent with the
21 requirements of this chapter.

22 ~~SECTION 1. Section 163 of the Streets and Highways Code~~
23 ~~is amended to read:~~

24 ~~163. The Legislature, through the enactment of this section,~~
25 ~~intends to establish a policy for the use of all transportation funds~~
26 ~~that are available to the state, including the State Highway Account,~~
27 ~~the Public Transportation Account, and federal funds. For the~~
28 ~~purposes of this section, "federal funds" means any obligational~~
29 ~~authority to be provided under annual federal transportation~~
30 ~~appropriations acts. The department and the commission shall~~
31 ~~prepare fund estimates pursuant to Sections 14524 and 14525 of~~
32 ~~the Government Code based on the following:~~

33 ~~(a) Annual expenditures for the administration of the department~~
34 ~~shall be the same as the most recent Budget Act, adjusted for~~
35 ~~inflation.~~

36 ~~(b) Annual expenditures for the maintenance and operation of~~
37 ~~the state highway system shall be the same as the most recent~~
38 ~~Budget Act, adjusted for inflation and inventory, or, when a~~
39 ~~maintenance plan has been enacted pursuant to Section 164.6,~~

1 maintenance expenditures shall be based on planned expenditures
2 in that plan.

3 (e) ~~Annual expenditure for the rehabilitation of the state highway~~
4 ~~system shall be the same as the most recent Budget Act, or, when~~
5 ~~a long-range rehabilitation plan has been enacted pursuant to~~
6 ~~Section 164.6, shall be based on planned expenditures in that~~
7 ~~long-range plan.~~

8 (d) ~~Annual expenditures for local assistance shall be the amount~~
9 ~~required to fund local assistance programs required by state or~~
10 ~~federal law or regulations, including, but not limited to, railroad~~
11 ~~grade crossing maintenance, bicycle transportation account~~
12 ~~projects, congestion mitigation and air quality, regional surface~~
13 ~~transportation programs, local highway bridge replacement and~~
14 ~~rehabilitation, local seismic retrofit, local hazard elimination and~~
15 ~~safety, and local emergency relief.~~

16 (e) ~~After deducting expenditures for administration, operation,~~
17 ~~maintenance, local assistance, safety, and rehabilitation pursuant~~
18 ~~to subdivisions (a), (b), (c), and (d), and for expenditures pursuant~~
19 ~~to Section 164.56, the remaining funds shall be available for capital~~
20 ~~improvement projects to be programmed in the state transportation~~
21 ~~improvement program.~~